

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BAY AREA PAINTERS AND TAPERS  
PENSION TRUST FUND, and its JOINT  
BOARD OF TRUSTEES; LES  
PROTEAU and CHARLES DEL  
MONTE, TRUSTEES,

Plaintiffs,

v.

SAINZ DRYWALL, INC., a California  
corporation, *fka* SAINZ DRYWALL  
INTERIORS; and RANDY ANTHONY  
SAINZ, individually,

Defendants.

Case No.: C11-4937 YGR (JSC)

**ORDER RE: PLAINTIFFS' MOTION  
FOR DEFAULT JUDGMENT**

In this enforcement action brought under the Employee Retirement Income Security Act ("ERISA"), Plaintiffs the Joint Board of Trustees of the Bay Area Painters and Tapers Pension Trust Fund, including the Bay Area Painters and Tapers Pension Trust Fund Annuity Plan; District Council 16 Northern California Health and Welfare Trust Fund; and District Council 16 Northern California Apprentice and Journeyman Training Trust Fund (collectively, "Plaintiffs") bring a Motion for Default Judgment. Plaintiffs seek to compel payment of any unpaid contributions, liquidated damages, interest, and attorneys' fees and

1 costs. This matter was referred to the undersigned Magistrate Judge for a report and  
2 recommendation on Plaintiffs' Motion for Default Judgment.

3 Plaintiffs' Motion for Default Judgment includes a request for \$58,103.06 in unpaid  
4 contributions, \$11,620.62 in liquidated damages, \$2,416.43 in interest, \$8,494.00 in  
5 attorneys' fees (through June 19, 2012), \$595.73 in costs (through April 10, 2010), and  
6 \$1,080.00 in additional estimated attorneys' fees (collectively "Amount Requested"). (Dkt.  
7 No. 24 at 6.) In the chart detailing these amounts Plaintiffs include three line items for  
8 payments made on the delinquent contributions. (Id.) These three payments include: (1)  
9 \$1,000.00 paid by Defendant Sainz Drywall on November 30, 2011, (2) \$11,346.79 paid by  
10 ZCON Builders on January 11, 2012, and (3) \$11,799.14 paid by Sequoia Pacific on April  
11 16, 2012 (collectively "Payments"). (Id.) In the chart, Plaintiffs subtract the sum amount of  
12 Payments from the total sum of the Amount Requested; however, Plaintiffs do not explain  
13 whether or how the Payments were factored in the interest calculations. The Court needs to  
14 understand the interplay between the deductions and Plaintiffs' interest calculations, and  
15 whether Plaintiffs deducted the accrued interest on a pro rata basis once the deductions were  
16 made.

17 Without this information the record provides an insufficient basis for determining a  
18 reasonable award. Accordingly, within 7 days from the filing date of this Order, Plaintiffs  
19 shall submit a declaration supporting the Amount Requested, detailing if and how the  
20 Payments were factored into their interest calculations.

21 Additionally, in their Complaint, Plaintiffs pray for "an order compelling Defendants  
22 to submit to an audit of their payroll records upon demand from Plaintiffs." (Dkt. No. 1 at  
23 7.) However, Plaintiffs make no mention of an audit in their Motion for Default Judgment.  
24 Accordingly, within 7 days from the filing date of this Order, Plaintiffs shall supplement  
25 their motion for default judgment clarifying whether they are seeking an audit. If Plaintiffs  
26 do not file a supplemental statement, the Court will assume that Plaintiffs are no longer  
27 seeking an audit since no reference to an audit was included in the Motion for Default  
28 Judgment.

  
JACQUELINE SCOTT CORLEY  
UNITED STATES MAGISTRATE JUDGE